

Derek A. Newman, State Bar No. 190467  
NEWMAN LLP  
505 Montgomery Street, 11th Floor  
San Francisco, CA 94111  
Phone: (415) 944-5422  
Facsimile: (415) 944-5423  
dn@newmanlaw.com

Counsel for Plaintiff  
Christopher Boffoli

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA**

CHRISTOPHER BOFFOLI, an individual,  
  
Plaintiff,  
  
v.  
  
FLICKR, INC., a Delaware corporation,  
  
Defendant.

Case No. 3:24-cv-08115

**COMPLAINT FOR DIRECT,  
CONTRIBUTORY, AND VICARIOUS  
COPYRIGHT INFRINGEMENT**

**DEMAND FOR JURY TRIAL**

Plaintiff Christopher Boffoli (“Boffoli”) hereby alleges for his complaint against Defendant Flickr, Inc. (“Flickr”) upon personal information as to Plaintiff’s own activities, and upon information and belief as to the activities of others, as follows:

**NATURE OF THE CASE**

1. This is a claim for copyright infringement arising under the copyright laws of the United States, Title 17 of the United States Code.

**JURISDICTION**

2. This Court has exclusive subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

3. This Court has personal jurisdiction over Flickr because its headquarters are located within the Northern District of California, San Francisco Division, and because the acts and omissions in question occurred here.

**DIVISIONAL ASSIGNMENT**

5. Pursuant to Civil L.R. 3-2(c), assignment to the Northern District of California, San Francisco Division is appropriate because a substantial part of the events or omissions giving rise to the claim occurred in the county served by this court division.

**PARTIES**

6. Boffoli is an individual and resident of the state of Washington.

7. Flickr is a Delaware corporation with its principal place of business in San Francisco, California.

**FACTS**

**A. Boffoli created copyrightable photographs and registered them with the U.S. Copyright Office.**

8. Boffoli is a fine art, editorial, and commercial photographer who created “Big Appetites,” a series of photographs featuring tiny figures photographed against real food backdrops. Big Appetites has been published in more than 100 countries around the world and has been featured in major publications such as the New York Times, Washington Post, NPR, and CBS This Morning, among many others.

9. Fine art photographs from Boffoli’s Big Appetites collection can be found in galleries and private collections in the US, Canada, Europe, and Asia. Boffoli is frequently hired by top advertising agencies and brands for commercial commissions based on his work. He also is hired by various publications for editorial commissions. Boffoli’s images frequently are licensed for publication in books, magazines, calendars, online publications, commercial websites, and greeting cards.

10. Boffoli’s business is based on licensing and selling the photographs he creates. Big Appetites fine art photographs are currently available for purchase at fine art galleries and have also been included in museum exhibitions in the US and abroad.

11. Boffoli registered each photograph in the Big Appetites series with the U.S. Copyright Office and has Copyright Registration Nos. VAu 1-106-484 (2011) and VA0001948517 (2014). A copy of these copyright registrations is attached as **Exhibit A**.

**B. Flickr’s customers post photographs from Big Appetites without license or permission from Boffoli on webpages housed on Flickr’s servers.**

12. Flickr operates a platform that allows customers to post content on its servers, including content that infringes on Boffoli’s copyrighted work (the “Infringing Content”). The Infringing Content is hosted on Flickr’s servers at:

<[https://www.flickr.com/photos/mana\\_drawing/8032057471/](https://www.flickr.com/photos/mana_drawing/8032057471/)>;

<<https://www.flickr.com/photos/tawfiqjuhaish/6944655131/>>;

<<https://www.flickr.com/photos/tawfiqjuhaish/6944655599/>>;

<<https://www.flickr.com/photos/tawfiqjuhaish/6798542264/>>;

<<https://www.flickr.com/photos/tawfiqjuhaish/6798542098/>>;

<<https://www.flickr.com/photos/tawfiqjuhaish/6944654857/>>;

<<https://www.flickr.com/photos/tawfiqjuhaish/6798541560/>>;

<<https://www.flickr.com/photos/tawfiqjuhaish/6798541358/>>;

<<https://www.flickr.com/photos/tawfiqjuhaish/6798541094/>>;

<<https://www.flickr.com/photos/tawfiqjuhaish/6944654095/>>;

<<https://www.flickr.com/photos/tawfiqjuhaish/6798540742/>>;

<<https://www.flickr.com/photos/tawfiqjuhaish/6944653749/>>;

<<https://www.flickr.com/photos/tawfiqjuhaish/6798540402/>>;

<<https://www.flickr.com/photos/tawfiqjuhaish/6798540246/>>;

<<https://www.flickr.com/photos/tawfiqjuhaish/6944656373/>>;

<<https://www.flickr.com/photos/tawfiqjuhaish/6798542648/>>;

<<https://www.flickr.com/photos/tawfiqjuhaish/6798542806/>>; and

<<https://www.flickr.com/photos/tawfiqjuhaish/6798542992/>>.

1           13. The Infringing Content hosted by Flickr contained eighteen photos from Big  
2 Appetites without license or permission from Boffoli. A copy of the Infringing Content is  
3 provided as **Exhibit B**.

4           14. On information and belief, Flickr can remove the Infringing Content hosted on  
5 Flickr's servers. Flickr can also disable customers' abilities to post content on the Internet.

6           15. On information and belief, the availability of infringing material on Flickr's website  
7 acts as a draw for customers, and more customers use Flickr's website as the quality and quantity  
8 of available content increases.

9           16. Flickr's registration with the United States Copyright Office for receipt of Digital  
10 Millennium Copyright Act ("DMCA") notices identifies "dmca@flickr.com" as the email  
11 address of its designated agent. A copy of Flickr's registration is provided as **Exhibit C**.

12 **C. Flickr refused to remove or disable access to all of the Infringing Content after**  
13 **September 2024, despite notice from Boffoli.**

14           17. On September 28, 2024, Boffoli sent a takedown notice to Flickr's dmca@flickr.com  
15 email address notifying Flickr of some of the Infringing Content. Flickr responded confirming  
16 receipt of Boffoli's request and indicating it would respond as quickly as possible. Boffoli's notice  
17 and subsequent correspondence with Flickr are attached as **Exhibit D**.

18           18. After sending the September 28 notice, Boffoli discovered more Infringing Content,  
19 and sent another takedown notice to Flickr's dmca@flickr.com email address on October 3,  
20 2024. Boffoli's notice and subsequent correspondence with Flickr are attached as **Exhibit E**.

21           19. Boffoli never authorized his work to be posted on Flickr's website.

22           20. As of November 12, 2024, Flickr had not removed or disabled access to the  
23 Infringing Content. (*See* Exhibit B.)

24  
25 **FIRST CAUSE OF ACTION**  
(Copyright Infringement, 17 U.S.C. § 501)

26           21. Boffoli hereby incorporates the preceding paragraphs as if fully set forth herein.  
27  
28

22. Boffoli is, and at all relevant times has been, the owner of the copyright in the photographs in the Big Appetites series.

23. Each photograph in Big Appetites is copyrightable subject matter under 17 U.S.C. § 102(a)(5).

24. Boffoli has complied in all respects with the provisions of the Copyright Act and all regulations thereunder.

25. Boffoli registered the copyright in each photograph in Big Appetites with the United States Copyright Office.

26. Boffoli has the exclusive rights under 17 U.S.C. § 106 to (1) reproduce the photographs in Big Appetites, (2) prepare derivative works based on Big Appetites, (3) distribute copies of Big Appetites, and (4) display Big Appetites publicly.

27. Without the permission or consent of Boffoli, photographs from Big Appetites were reproduced, copies were distributed of, and the photographs were displayed by Flickr on its servers and website, flickr.com.

28. Boffoli's exclusive rights in the photographs in Big Appetites were violated.

29. Flickr directly infringed Boffoli's copyrights by continuing to allow public access to the Infringing Content on Flickr's servers, despite having actual knowledge of the Infringing Content. Boffoli provided notice to Flickr in compliance with the DMCA, and Flickr failed to expeditiously disable access to or remove the Infringing Content.

30. Flickr acted willfully.

**SECOND CAUSE OF ACTION**  
(Contributory Copyright Infringement, 17 U.S.C. § 501)

31. Boffoli hereby incorporates the preceding paragraphs as if fully set forth herein.

32. Boffoli is, and at all relevant times has been, the owner of the copyright in the photographs in the Big Appetites series.

33. Each photograph in Big Appetites is copyrightable subject matter under 17 U.S.C. § 102(a)(5).

1 34. Boffoli has complied in all respects with the provisions of the Copyright Act and all  
2 regulations thereunder.

3 35. Boffoli registered the copyright in each photograph in Big Appetites with the United  
4 States Copyright Office.

5 36. Boffoli has the exclusive rights under 17 U.S.C. § 106 to (1) reproduce the  
6 photographs in Big Appetites, (2) prepare derivative works based on Big Appetites, (3) distribute  
7 copies of Big Appetites, and (4) display Big Appetites publicly.

8 37. Without the permission or consent of Boffoli, photographs from Big Appetites were  
9 reproduced, copies were distributed of, and the photographs were displayed on Flickr's servers  
10 and website, flickr.com.

11 38. Boffoli's exclusive rights in the photographs in Big Appetites were violated.

12 39. Flickr induced, caused, or materially contributed to the Infringing Content's  
13 publication.

14 40. Flickr had actual knowledge of the Infringing Content. Boffoli provided notice to  
15 Flickr in compliance with the DMCA, and Flickr failed to expeditiously disable access to or  
16 remove the Infringing Content.

17 41. Flickr acted willfully.

18  
19 **THIRD CAUSE OF ACTION**  
(Vicarious Copyright Infringement, 17 U.S.C. § 501)

20 42. Boffoli hereby incorporates the preceding paragraphs as if fully set forth herein.

21 43. Boffoli is, and at all relevant times has been, the owner of the copyright in the  
22 photographs in the Big Appetites series.

23 44. Each photograph in Big Appetites is copyrightable subject matter under 17 U.S.C. §  
24 102(a)(5).

25 45. Boffoli has complied in all respects with the provisions of the Copyright Act and all  
26 regulations thereunder.

1 46. Boffoli registered the copyright in each photograph in Big Appetites with the United  
2 States Copyright Office.

3 47. Boffoli has the exclusive rights under 17 U.S.C. § 106 to (1) reproduce the  
4 photographs in Big Appetites, (2) prepare derivative works based on Big Appetites, (3) distribute  
5 copies of Big Appetites, and (4) display Big Appetites publicly.

6 48. Without the permission or consent of Boffoli, Flickr's customers posted photographs  
7 from Big Appetites on Flickr's website, flickr.com, and photographs from Big Appetites were  
8 reproduced, copies were distributed of, and the photographs were displayed on the website and  
9 Flickr's servers.

10 49. On information and belief, Flickr has the ability to block customers' access to its  
11 platform and therefore has the right and ability to supervise its customers' infringing activities.

12 50. On information and belief, the availability of infringing material on Flickr's website  
13 acts as a draw for customers and Flickr therefore has a direct financial interest in infringing  
14 activities.

15 51. Flickr turned a blind eye to the infringing activities of its customers, despite having  
16 actual knowledge of the Infringing Content. Boffoli provided notice to Flickr in compliance with  
17 the DMCA, and Flickr failed to expeditiously disable access to or remove the Infringing Content.

18 52. Flickr acted willfully.

### 19 **RELIEF REQUESTED**

20 WHEREFORE, Boffoli asks this Court to enter judgment against Flickr granting the  
21 following relief:

22 1. Temporary and permanent injunctions preventing and restraining infringement of  
23 Big Appetites by Flickr under 17 U.S.C. § 502;

24 2. An order requiring the destruction of all copies made by or under the control of  
25 Flickr of the photographs in Big Appetites and all articles by which such copies may be  
26 reproduced under 17 U.S.C. § 503;

27 3. An award of the actual damages suffered by Boffoli as the result of Flickr's  
28

1 infringement plus the profits attributable to the infringement under 17 U.S.C. § 504(b);

2 4. In the alternative, an award of statutory damages for each infringement of Big  
3 Appetites under 17 U.S.C. § 504;

4 53. A judgment that Flickr's infringement was willful and an increased statutory damage  
5 award under 17 U.S.C. § 504(c)(2);

6 54. An award of Boffoli's full costs including a reasonable attorney's fee under 17 U.S.C.  
7 § 505; and

8 55. For such other and further relief as may be just and proper under the circumstances.

9  
10 Dated: November 18, 2024

Respectfully submitted,

11 NEWMAN LLP

12 /s/ Derek A. Newman

13 Derek A. Newman, State Bar No. 190467

14 505 Montgomery Street, Suite 11th Floor

15 San Francisco, CA 94111

16 Phone: (415) 944-5422

17 Facsimile: (415) 944-5423

18 Email: *dn@newmanlaw.com*

19 Counsel for Plaintiff

20 Christopher Boffoli



**DEMAND FOR JURY TRIAL**

Pursuant to Fed. R. Civ. P. 38(b), Plaintiff Christopher Boffoli demands a trial by jury of all issues presented in this complaint which are triable by jury.

Dated: November 18, 2024

Respectfully submitted,

NEWMAN LLP

/s/ Derek A. Newman

Derek A. Newman, State Bar No. 190467

505 Montgomery Street, Suite 11th Floor

San Francisco, CA 94111

Phone: (415) 944-5422

Facsimile: (415) 944-5423

Email: *dn@newmanlaw.com*

Counsel for Plaintiff

Christopher Boffoli